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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
DEPT. OF COMMERCE

In the Matter of)

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)
Amendment of Parts 2 and 90 of the)
Commission's Rules to Provide for the)
Use of 200 Channels Outside the)
Designated Filing Areas in the)
896-901 MHz and the 935-940 MHz Bands)
Allotted to the Specialized Mobile Radio Pool)

PR Docket No. 89-553

)
)
Implementation of Section 309(j))
of the Communications Act -)
Competitive Bidding)

PP Docket No. 93-253

)
)
Implementation of Sections 3(n) and 332)
of the Communications Act)

GN Docket No. 93-252

REPLY COMMENTS
GEOTEK COMMUNICATIONS, INC.

Geotek Communications, Inc. ("Geotek") hereby submits its Reply
Comments to the Second Report and Order and Second Further Notice of Pro-
posed Rule Making ("900 MHz NPRM") in the above captioned dockets (60 Fed.
Reg. 21,987, May 4, 1995). Geotek filed comments in response to the 900 MHz
NPRM and as such is a party to this proceeding. Geotek's reply comments are
set forth below.

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REPLY COMMENTS

I. Geotek Supports the Commission's Proposed Small Business Definition

Geotek supports the Commission's proposal that the definition of a small business to include entities (including minority and women owned entities) with less than \$3 million in average gross revenue for the preceding three years.¹ The higher thresholds required for small businesses in the PCS context do not exist in the 900 MHz service. The capital requirements for entry into the 900 MHz market and the provision of SMR services are traditionally lower than other mobile services. Thus, it is less likely that small businesses will need Commission support through bidding credits, installment payments and reduced down payments in order to participate in the proposed auctions for this service.

Of the many commenters in this proceeding, only the U.S. Small Business Administration ("SBA") and two commenters representing rural telephone companies, the Small Common Carrier Coalition ("SCCC") and the National Telephone Cooperative Association ("NCTA") object to the \$3 million

¹ 900 MHz NPRM at ¶¶ 135-139. Geotek supports the Commission's determination that different eligibility criteria for minority, and rural telephone and women-owned entities are not necessary. The barriers to entry in the 900 MHz SMR band have never prevented such entities from participating in the lotteries or entering the marketplace. Thus, the 900 MHz band enjoys a diverse mix of players consistent with Congress's objective and the Commission's need not carve out additional credits for such entities. Moreover, as the Commission notes in the 900 MHz NPRM, the \$3 million threshold will benefit these entities consistent with the statute. See 900 MHz NPRM at ¶ 135 and n.192.

dollar threshold. The SBA's proposal to increase the small business revenue threshold is largely based on its theory that large firms that are unsuccessful bidders in the 800 MHz auctions will migrate to 900 MHz. However, the SBA's theory is purely speculation. Further, it incorrectly assumes that the 800 MHz SMR channels are fungible with 900 MHz channels.

The two bands are technically different, have different licensing histories and not fungible. For example, in the 900 MHz band the Commission adopted a 12.5 kHz channeling plan rather than the 25 kHz plan applicable to 800 MHz SMRs. Further, 900 MHz licenses are assigned contiguous channels rather than separated as they are in the 800 MHz band with different spacing between the channels. Thus, the equipment and system design applicable to the 900 MHz and 800 MHz bands are different. Moreover, the Commission has taken an entirely different licensing approach in the two bands. The 900 MHz band has been licensed on a market basis (Designated Filing Areas) and the 800 MHz has been licensed on a licensee-defined service area. The different approaches have resulted in the two services being developed in entirely different manners.

With regard to SCCC and NCTA, both represent rural telephone companies. They both suggest higher thresholds for the small business definition. SCCC complains that capital requirements for rural telephone companies are much higher than those for urban telephone companies. However, SCCC has not

asserted that rural telephone companies will have any different requirements than others entering the 900 MHz service. Moreover, rural telephone companies will have advantages in the 900 MHz auctions that other bidders will not. As the Commission pointed out, because wireline restrictions have been eliminated, rural wireline providers can take advantage of their existing infrastructure in building out in the 900 MHz service. In addition, the proposed geographic partitioning will enable rural telephone companies to bid via consortia or acquire partitioned 900 MHz SMR licenses through negotiations among themselves.

Like the vast majority of commenters in this proceeding, Geotek supports the Commission's proposed \$3 million small business definition. The Commission's decision correctly balances the competing interests of small businesses in affording them opportunities to acquire licenses in the 900 MHz band and incumbent licensees who have invested substantial capital and resources in developing this band. The Commission's determination to define the small business threshold based on the characteristics of the band meets the objectives of Congress and the Commission's obligation to protect the public interest.

II. Geotek supports a 10% Bidding Credit Limited to Unencumbered 900 MHz Spectrum

Geotek agrees with the Commission's proposed 10% bidding credit for auctions in the 900 MHz SMR band. However, Geotek opposes

application of the bidding credit to occupied or encumbered 900 MHz spectrum. Most of the commenters in this proceeding also agree with a cap of 10% on permissible bidding credits.

Throughout this proceeding the Commission has attempted to strike a balance between incumbent licensees and potential new MTA licensees.² Geotek has filed comments supporting Commission proposals that recognized incumbent's substantial investment and contribution to developing the 900 MHz band. Awarding bidding credits on encumbered spectrum unfairly prejudices incumbents in the auction process when bidding on the MTA frequencies associated with their licenses. Thus, Geotek recommends that no credits apply to encumbered spectrum.

Adoption of Geotek's recommended approach should satisfy the concerns of small businesses that are also incumbent licensees. Two commenters -- both small businesses and incumbent licensees -- advocated for a small business threshold higher than the 10% proposed by the Commission. The concern of incumbents is that allowing credits to be used in an auction for encumbered spectrum puts the incumbent on unequal footing when bidding for the MTA license. Moreover, it puts the incumbent's substantial financial investment in developing its existing license at risk. Thus, Geotek's recommended approach --

² See, e.g., 900 MHz NPRM at ¶ 135.

no bidding credits for encumbered spectrum, or alternatively, designated entities bidding against an incumbent get no greater credit than the incumbent -- would satisfy the two commenters proposing a higher bidding credit for small businesses.

CONCLUSION

For the aforementioned reasons, Geotek respectfully requests that the Commission adopt the \$3 million threshold for small businesses and limit the availability of bidding credits to unencumbered spectrum.

Respectfully submitted by:

GEOTEK COMMUNICATIONS, INC.

A handwritten signature in black ink, appearing to read "Michael S. Hirsch", is written over a horizontal line.

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Dated: June 12, 1995

CERTIFICATE OF SERVICE

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